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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,934	11/15/2001	Zoltan Nagy	GPCG-P01-003	8886

28120 7590 04/07/2003

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EXAMINER

CANELLA, KAREN A

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 04/07/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/001,934

Applicant(s)
Nagy et al

Examiner
Karen Canella

Art Unit
1642



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 days MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-116 is/are pending in the application.
- 4a) Of the above, claim(s) 39-42, 44-54, 57, 58, 64, 65, 96-108, and 116 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-38, 43, 55, 56, 59-63, 66-95, and 109-115 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

1. Claims 12 and 51 have been amended. Claims 1-116 are pending.
2. Acknowledgment is made of applicant's election with traverse of Group I, claims 1-38, 43, 55, 56, 59-63, 66-95 and 109-115, drawn to compositions comprising a polypeptide comprising an antibody-based antigen-binding domain which specifically binds to an antigen expressed on the surface of a human cell, wherein treating said cell with said composition results in the killing of said cell without cytotoxic entities or immunological mechanisms; kits thereof; and, methods for conducting pharmaceutical and life science businesses. Acknowledgment is also made of applicant's election with traverse of the species B-cell non-Hodgkin's lymphoma and the cell line KARPAS-422 for species (a), GPC-8-27-41 for species (b), and multiple sclerosis for species (c). A response to the traversal will be included in the First Action on the Merits. After review and reconsideration, an additional restriction of the elected Group I is required.

Election/Restriction

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-38, 43, 55, 56, 59-63, 66-95, drawn to a composition, classified in class 530, subclass 387.1, 388.73, 388.8, 388.85, 389.1, 389.3, , 389.6, 389.7, and 391.7 and class 424, subclasses 130.1, 133.1, 138.1, 139.1, 140.1, 141.1, 142.1, 153.1, 155.1, 173.1, 174.1, 178.1, 181.1 and 183.1.
 - II. Claims 109-115, drawn to methods of conducting pharmaceutical and life-science businesses, classified in class 705, subclass 500.
4. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the composition can be used in a process of making an anti-

idiotypic antibody, or can be used in a method of treating an individual with non-Hodgkin's lymphoma.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter and because the searches required for the groups are not co-extensive, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Canella whose telephone number is (703) 308-8362. The examiner can normally be reached on Monday through Friday from 8:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.


Karen A. Canella, Ph.D.

Patent Examiner, Group 1642

April 3, 2003